

**BOARD OF COMMISSIONERS  
MINUTES ~ MARCH 7, 2006**

COMMISSIONERS PROCEEDINGS  
MARCH 7, 2006  
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stuart and Boldt, Chair, present. Commissioner Morris absent.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD 2431

Reconvened a public hearing for Bid Award 2431 – Pacific Community Park. Mike Westerman, General Services, stated that Clark County was in receipt of a bid protest from Colf Construction. Per advice from legal council, Purchasing and the Vancouver-Clark Parks and Recreation Department were requesting that Bid 2431 be delayed until March 21, 2006 in order to allow adequate time to respond to the protest.

There being no public comment, **MOVED** by Stuart to continue Bid 2431 to March 21, 2006, at 10:00 a.m., in the Commissioners' Hearing Room, Sixth Floor, Public Service Center. Commissioners Boldt and Stuart voted aye. Motion carried. (See Tape 256)

*Boldt* wanted to know if the groundbreaking was still going to continue as planned.

*Westerman* said yes.

BID AWARD 2432

Reconvened a public hearing for Bid Award 2432 – Salmon Creek Regional Park. Mike Westerman, General Services, read a memo recommending that Bid 2432, including Alternate #1, be awarded to the lowest bidder.

*Stuart* asked about the hi-lighted numbers.

*Westerman* explained that those were identified as irregularities on the tabulation sheet and were for their own evaluation. He said they didn't pertain to the low bidder.

*Boldt* wanted to know what a splash pad is.

*Steve Duh*, Vancouver-Clark Parks and Recreation, said a splash pad is a water feature for kids to play in. He said they are installing it as part of an IAC grant that also serves to get kids out of Kline Pond and improve water quality.

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There being no public comment, **MOVED** by Stuart to award Bid 2432 to AYM Corporation of Vancouver, Washington, in the total bid amount of \$489,710.30, including Washington State sales tax, and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Boldt and Stuart voted aye. Motion carried. (See Tape 256)

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

*Janine Carr*, 2805 NE 144<sup>th</sup> Street, Vancouver, commented about consent agenda item 6 (Resolution for Wark Subdivision, Deed from adjacent owner, NE 144<sup>th</sup> Street), particularly the surplus property. Mrs. Carr said the surplus property is 6 to 9 feet that the county would not need when the road is developed to full width and they would like the board's approval of the surplus property. She stated that she and her husband actually measured 9 feet of surplus, versus 6, and wanted to know whether or not that would be an issue.

*Rich Lowry*, Prosecuting Attorney's Office, provided some background. He stated that the private road was originally built by the developer of the division to the south and that developer retained ownership of the private road. As far as Wark Subdivision, county staff wanted that to be a public road eventually. The heirs of the developer to the south agreed to deed the private road area to the county, which would essentially allow the combination of the private road and public road into one public road. He further explained. Lowry said the 6 feet number came to him from Ali Safayi of the Department of Community Development. He said that Mr. Safayi's memo described what kind of right-of-way was necessary for this class of road and that's where the 6-feet came from. If less than that is needed, the board could now declare more than 6-feet surplus; however, if the board passes this resolution, things would become more complex if it's later determined to be surplus. He said they would have to go through a public hearing on a vacation request in order to get it out of right-of-way, declare it surplus, and then convey it to the property owners to the south.

*Boldt* asked if it would be best to delay the resolution.

*Lowry* said he didn't see that there was an immediate need for adoption for the resolution and perhaps they could continue it for one week. He suggested discussion with county staff in terms of how they arrived at the 6 feet.

*Carr* added that when all of it was originally going through—with the contention of the private road—all of the property owners thought they owned to the middle of the line of the private road. However, they found out that they did not and the road was sold to the

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developer and then deeded to the county. During that process, they paved a private roadway and between the pavement and their property line there was about 6-feet of space that was dirt and vegetation. Carr said many people planted in that space and so besides having that property as part of their lot, there is also sentimental value because of the existing cherry trees she and her family planted.

*Lowry* indicated that if 6-feet is the number, the un-used right-of-way can be improved by the abutting owner so long as a traffic hazard isn't created. So the cherry trees, as well as other plantings, could remain. He added that it may be a long time before the county would ever complete the full-width.

*Stuart* said the question is whether there's an additional 3 feet out there that isn't necessary.

*Ali Safayi*, Department of Community Development-Engineering Services, stated that the classification of NE 144<sup>th</sup> Street is neighborhood circulator, which requires 54 feet of right-of-way; 36 feet of pavement; and 5-foot sidewalks on each side, with 3-½ feet of clear space behind the sidewalk. Mr. Safayi explained that because of the circumstances, the right-of-way at the build-out of the road would be reduced to 49.5 feet, but the improvements would be according to the neighborhood circulator, with 36 feet of pavement, as required, and 5-foot sidewalks on each side. He said there is a reduction of 2.5 feet on the north side where the new development is and reduction of 3 feet on the south side.

*Boldt* asked if that is where the 6 feet comes from.

*Safayi* said yes.

[Discussion continued]

*Boldt* asked if they could delay the resolution for one week so that staff could look at the measurements.

*Lowry* said the 3-feet clearance behind the sidewalk is really what they're talking about and how critical it is given the fact that the property owners to the south have already developed.

*Stuart* said he would feel more comfortable continuing it for one week in order to discuss what the pros and cons are so that they can determine exactly what the 3 feet means.

*Carr* said they would appreciate that, especially given the history of what the property owners have gone through.

*Safayi* said he could meet with Mrs. Carr.

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*Carr* also referenced Condition A-7, which is part of the packet before the board. She read the language – "...the newly constructed roadway, and re-grade disturbed areas to a smooth condition and establish a vegetative cover at least consistent with county erosion control standards." She said currently the view outside their property is dismal and that the tie-ins from the new road to their driveways had to be done twice in order for it to have not only a functionally, but also a somewhat aesthetic appearance. She said the tie-in to the cul de sac is still very poor and barely functional. *Carr* said the property owners are wondering what recourse they have in terms of this being done in a better way.

*Boldt* asked Mr. Safayi if he could also look into this issue.

*Safayi* said yes.

*Boldt* had a question about consent agenda item 1 (Master Agreement with WEST Consultants, Inc. for floodplain reviews). He referenced Exhibit A, Performance Standards and Assumptions, and asked what would happen if the contractor didn't meet the performance standards.

*Sue Stepan*, Department of Community Development-Engineering Services, responded that if the proposed consultant doesn't meet the standards, the contract would likely be terminated.

*Boldt* asked if the standards were imposed on the county as well.

*Stepan* said they try to. She said the goal is to provide the same level of customer service they provide their contractors.

*Boldt* said the county should hold themselves to the same standards.

*Stepan* pointed out that their goal is to have a 24-hour turnaround time for phone calls, e-mails, etc.

*Boldt* said there has also been some delay in getting the floodplain permits out in time. He wanted to know if that was the reason for using a consultant.

*Stepan* said yes. She explained that with the staff resignations this past fall in the Engineering group, they lost staff that was trained and qualified to do the floodplain analysis work. Currently, they don't have in-house staff with the FEMA training required for this specialized type of review; however, they are in the process of hiring two new engineers and one of them would likely be able to transition into that role. *Stepan* said that over the next six months they hoped to get their staff qualified to do that type of work.

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*Boldt* wanted to know the county is accountable for any delays that may occur with a citizen's paperwork that goes to the consultant's office.

*Stepan* said yes. She said county staff would maintain contact with applicants and she would work with the consultants. She said with this contract they should be able to have more proper turnaround times.

*Stuart* said on floodplain inquiries and work that the contractor would do, he asked if this was work the applicant would also do and the contractor would check to ensure it's accurate, or was it an analysis done only by the county.

*Stepan* said that for inquiries, generally the applicant does very little work. She explained that the purpose of an inquiry is to determine if a floodplain analysis is necessary or not. For floodplain reviews, the applicant's engineer does the bulk of the engineering analysis and Development Review's role, typically, is to review the work of other professionals. She said that because of the rules they have with FEMA related to their floodplain rules, they have to do a somewhat higher level of review. She said the applicant has the burden of proof to look at what the impacts of a proposal would be.

*Stuart* wanted to know if it's FEMA requirements that necessitate them to review that work.

*Stepan* said yes. She said they have to acknowledge that the applicant's engineer met the standards in the industry. She said the main thing they're seeing is that they have to be very careful in the elevations that applicant's use and so a lot of the work the company is doing for them is to verify that the property elevations are being used in the analysis.

There being no further public comment, **MOVED** by Stuart to approve items 1 through 16, with the exception of item 6 – Resolution for Wark Subdivision. Commissioners Boldt and Stuart voted aye. Motion carried. (See Tape 256)

There being no further public comment, **MOVED** by Stuart to continue item 6 – Resolution for Wark Subdivision, to March 14, 2006, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. Commissioners Boldt and Stuart voted aye. Motion carried. (See Tape 256)

COMMISSIONER COMMUNICATIONS

*Boldt* said he attended the Battle Ground City Council meeting the previous night. He stated that city councils are amazing and do so much work for so little money.

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**2:00 P.M. PUBLIC BID OPENINGS**

Present at bid opening: Louise Richards, Board of County Commissioners Office; and Mike Westerman and Allyson Anderson, General Services-Purchasing Department

BID OPENING 2433

Held a public hearing for Bid Opening 2433 – Orchards Highlands Park. Mike Westerman, General Services, opened and read bids and stated that it was the Purchasing Department's intention to award Bid 2433 on March 14, 2006 at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. (See Tape 257)

BID OPENING 2434

Held a public hearing for Bid Opening 2434 – Annual Horticultural Supply Contract. Mike Westerman, General Services, opened and read bids and stated that it was the Purchasing Department's intention to award Bid 2434 on March 14, 2006 at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. (See Tape 257)

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BOARD OF COUNTY COMMISSIONERS



Marc Boldt, Chair



Steve Stuart, Commissioner

Betty Sue Morris, Commissioner

ATTEST:



Clerk of the Board

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The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stuart, Morris, and Boldt, Chair, present.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD 2433

Reconvened a public hearing for Bid Award 2433 – Orchards Highlands Neighborhood Park. Mike Westerman, General Services, read a memo recommending that Bid 2433 be awarded to the lowest bidder.

*Boldt* wanted to know what had been done regarding the bid for Pacific Park.

*Westerman* said it is still pending determination and the letter is being reviewed by the Prosecuting Attorney's Office.

There being no public comment, **MOVED** by Stuart to award Bid 2433 to Lloyd Kessler of Vancouver, Washington, in the total bid amount of \$391,369.35, including Washington State sales tax, and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 257)

BID AWARD 2434

Reconvened a public hearing for Bid Award 2434 – Annual Horticultural Supply Contract. Mike Westerman, General Services, stated that Clark County Parks had determined that additional time is required to evaluate the products submitted by the bidders to determine if they meet the bid specification. Therefore, Purchasing and the Public Works-Parks Department requested that the bid award be delayed until March 21, 2006, to allow adequate time to complete the evaluation.

There being no public comment, **MOVED** by Stuart to continue the award of Bid 2434 until March 21, 2006, at 10:00 a.m., in the Commissioners' Hearing Room of the Public Service Center, 6<sup>th</sup> Floor. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 257)

PUBLIC COMMENT

*Janine Carr*, 2805 NE 144<sup>th</sup> Street, Vancouver, referenced her comments at the board's hearing of March 7, regarding Consent Agenda item 3 – Wark Subdivision Resolution, specifically about the surplus property. Mrs. Carr said she and her husband were among

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the property owners who wanted the extra footage. She said there had been a discrepancy with the 6 to 9 feet measurement and her understanding was that the issue had been resolved and it was now 8.5 feet that is available to property owners. She said they appreciate and support that. She said that Mr. Safayi, Department of Community Development, had visited the area and several pictures were taken, which were going to be included in a packet to the board. Mrs. Carr said that since a new development had gone in, the look and feel of much of the existing neighborhood has been destroyed. She asked that some attention be paid to that.

*Boldt* indicated that they would have follow-up discussion in regards to this issue.

CONSENT AGENDA

There being no public comment, **MOVED** by Stuart to approve items 1 through 8. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 257)

*The Board of Commissioners adjourned and convened as the Board of Health*

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

*Stuart* referenced item 1 (DOE Coordinated Prevention Grant for solid waste funding) and asked what they were hoping to get for the \$77,808.

*John Wiesman*, Director, Clark County Health Department, explained that the grant would help fund the solid waste permitting and inspection process that they do with solid waste facilities, as well as respond to solid waste complaints from the public.

*Stuart* asked if at some point there would be any money available from the DOE to do an inventory of all septic facilities around the county.

*Wiesman* responded that they have been meeting with the DOE on those issues and have some special grants that look at certain water streams and work with the public to try and identify failed systems and help get those systems corrected. He said they continue to have discussions with DOE about possible funding to look at expanding the ability to identify septic systems.

*Morris* said there were two Centennial Clean Water Act grants that were either completed or nearing completion.

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*Wiesman* replied that the Salmon Creek basin was close to being completed and Gibbons Creek was the other one they would be working on.

*Boldt* said the grants state that it's a Coordinated Prevention Grant; however, in reading the documentation, he didn't see very much coordination.

*Wiesman* stated that the funds finance solid and hazardous waste planning and implementation grants and solid waste enforcement grants; so it's the enforcement piece plus some of their work with the Solid Waste Advisory Committee, which looks at the planning piece.

*Boldt* referred to item 2 (Steps to a Healthier Clark County grant in the amount of \$64,059 to provide epidemiologic evaluation and assessment) and asked what they would do with all of the data that's collected and whether that amount would cover the costs.

*Wiesman* said this was an implementation grant that Community Choices 2010 has with the Federal government and they are one of a number of sites in Washington that are implementing activities around prevention of obesity, increasing physical activity, nutrition, asthma, and diabetes. He said the portion Commissioner *Boldt* sees is the subcontract from Community Choices 2010 with the Health Department to do the evaluation pieces of the activities that are being implemented.

There being no public comment, **MOVED** by Stuart to approve items 1 through 5. Board members *Boldt*, Stuart, and Morris voted aye. Motion carried. (See Tape 257)

BOARD OF HEALTH COMMUNICATIONS

*Wiesman* pointed out that this week a new restaurant inspection site was added to Clark County's website ([www.clark.wa.gov](http://www.clark.wa.gov)). He said they are getting positive feedback from the public and restaurant owners alike. Also, Mr. *Wiesman* referenced a letter from the Public Health Advisory Council commending staff for work on the Mixed Use Ordinance and the importance of that as it links to health.

*Adjourned*

PUBLIC HEARING: MIXED USE ORDINANCE, MASTER PLANNED DEVELOPMENT ORDINANCE, AND MIXED USE DESIGN STANDARDS

During the last update of the Clark County Comprehensive Growth Plan, the Planning Commission and Board of Commissioners conducted hearings regarding the mixed use district. Based on testimony at those hearings, the board decided that further refinement of the mixed use code to include design standards was needed. In September 2004, the Board appointed an eight (8) member advisory committee to a short-term work program

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that culminated in the adoption of an interim mixed use code CCC40.230.020 on December 14, 2004. The committee met between September 2004 and January 2006 and developed an enhanced ordinance to regulate mixed use developments, associated design standards and amendments to the master planned development ordinance to include mixed use developments. This hearing was held in order to consider the proposed ordinances.

*Bob Higbie*, Department of Community Development, stated that this was the second phase of the mixed use improvement project that began in March of 2005, and has focused on developing a code that would result in profitable mixed uses that are mutually supporting and designed to integrate different uses in a manner that the community can be proud of. Higbie said the committee on this phase met seven times as an advisory committee and conducted an intensive public involvement program. He said there were several public work shops with both the Planning Commission and the Board of Commissioners during this time. The products include recommendations for changes to the mixed code itself and the development of a mixed use design standard manual, which the community and developers can use to assist them through the development process.

*Morris* noted that there are a lot of citizens who watch the proceedings on television, but do not fully understand this issue. She asked for further description of what mixed use developments look like and what the different available uses are and the ratios between the kinds of uses.

*Higbie* introduced Bob Benford, a consultant who worked with the committee.

*Bob Benford*, consultant, explained that for these mixed use zones they are looking for a mix of uses, e.g., residential with non-residential uses, which could be commercial, office, civic facilities, etc. The mix could be vertical or side-by-side. He said this ordinance's vision is more compact development with a bit higher density than the areas surrounding them. He said they came up with neighborhood activity centers. He further explained. He said they envision a lot of activity and in the long run, they have a tremendous potential of having a positive impact on the county as it grows.

*Morris* wanted to know that if someone chose to live in a mixed use development, would the ideal circumstances mean that there would be a restaurant within walking distance, or a mini mart, and places to walk a dog, etc.

*Benford* said yes, all of those.

*Boldt* said they have one code that applies to all, but he assumed they would look different in an urban area versus farther out because you're supposed to blend in with the existing area. He wanted to know if this code would be flexible enough to allow for that to happen. He said he assumed they would look different between a mixed use in downtown Vancouver versus somewhere else.

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*Benford* said they focused on the mixed use ordinance itself and not specific sites, but the ordinance and standards do deal with design standards, facades, treatment along a street, edges close to residentially zoned areas, and setbacks, etc. He said they came up with some maximum height limits and densities. He stated that if they were in a mixed use zone that's located to more urbanized areas, there would be denser types of development versus further out where the market probably would not support that really high intensity.

*Stuart* said one of his concerns has to do with how this ordinance would fit with the land that has been zoned for mixed use—what was to say that the urban mixed use would be more vertical or that the fringed mixed use would be more horizontal and a mix of uses? He asked if there was anything in the ordinance to promote blending with existing uses.

*Benford* said he thought the building design standards would help. Also, the residential density looks at just the area being used for residential purposes, which he thought would help.

*Morris* said that when an adjacent property develops at a higher density than an existing neighborhood, neighbors almost always resist that. She said if her recollection was correct, you could have an area that is zoned R1-75 and built to that density and then adjacent to that there could be a mixed use develop in which the density is 18 units per acre. The question is whether there is sufficient flexibility in the ordinance so that on those edges of the mixed use where it abuts an R1-75, you could have a smaller density area so that the change is not visually, psychologically, or emotionally stark.

*Benford* said those are good concerns. He said that throughout the process he had the location for the specific mixed use zones, but it's something they did not have control over during the process. He said there are some increased setback requirements and there's also some language regarding the configuration of uses. *Benford* further explained.

*Morris* wanted to know if the standards are clear that the mixed use development is to be either transitional or compatible with the adjacent development.

*Benford* said that those are some of the intent statements.

*Stuart* said it's not in the design standard portion itself. He referenced a mixed use ordinance from the State of Maryland and it's the example of what he would like to see. He said it sets out flexibility within the ordinance to have different kinds of mixed use based on the type of land and surroundings you're dealing with, but it also has certainty within each type of mixed use; there is certainty for neighbors to ensure that whatever occurs does fit with an existing area.

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*Morris* agreed. She said she would feel better if before final adoption staff would email the board with specific citations in the language that would ensure the kind of flexibility they're talking about. If, when they read the language, they don't feel they've gotten to that point, she assumed they would then want to have further discussion on that particular element.

*Benford* pointed out that there is also a neighborhood meeting at the beginning of a process that's required so the developer would have the opportunity to hear concerns of property owners.

*Boldt* said they have three areas of code that they are attempting to change, as well as the mix use design standards. He asked Rich Lowry if a developer would have to adhere to everything.

*Rich Lowry*, Prosecuting Attorney's Office, said yes, although at this point it sounded like the board was identifying a potential gap in the standards regarding compatibility with surrounding uses. He said it probably would not be that difficult to insert into the ordinance.

*Boldt* said they need to pay as much attention to the design standards as to the code changes.

*Lowry* said absolutely. As far as the compatibility issue, he said there is good language in the Purpose and Intent provisions, but the issue is whether it is carried over to the Standards.

*Stuart* said he was glad there were Purpose and Intent standards, but they need to make sure that translates into the ordinance itself.

*Lowry* said the Purpose and Intent statements are not regulatory. He said if there's ambiguity in the Standards, you could go back to the Purpose and Intent statements to try and construe what the Standards are intended to mean.

*Morris* said that despite the concerns they have, the work product is much better than the existing ordinance and holds much more promise to be useful and implementable. She thanked staff and the consultant.

*Benford* asked if there would be more of a concern over building height adjacent to single-family or if it was just more density.

*Stuart* said it could be a lot of different things. He said to think about what a high intensity use is next to existing low-density residential and the incompatibility. Is there flexibility in order to blend it so that you get to a lower density residential that would be

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abutting the existing lower density residential so that it is a more consistent use and better flow of uses from lower to higher intensity?

*Benford* said that is a difficult issue because the ordinance requires that each property has a mix of uses. He referenced Section A-2 of the Design Standards, page 41.

*Morris* said they're talking about outside of a development. She referenced the Highlands, located on NE 50<sup>th</sup>, which is a subdivision that was built in the early to mid-90's. She said the houses are 10-15,000 sq.-ft. lots and are very expensive. She said if a mixed use development went in the area across the street from the Highlands, the residents wouldn't like it and would say it's not compatible. She said the question the board is asking is whether there is sufficient flexibility in the standards to allow for compatibility with existing neighborhoods surrounding areas to be accomplished.

*Boldt* asked how many acres were in existing zoning for mixed use.

*Higbie* said he believed it was around 400-500 acres.

*Boldt* said they need a better map of the zone itself. He said as they move along they need to see how it's going to fit the existing.

*Lowry* referred to page 46 of the Design Standards, Section A-2-8, dealing with height, and suggested it could possibly be expanded to deal with density.

*Boldt* asked for comments from the committee.

*George Vartanian*, advisory committee member, 2217 NE 179<sup>th</sup> Street, Ridgefield, said that in regard to the concern about density and compatibility, they had heard from at least two large developers who indicated that they understand this part of the code clearly and know what's required. Mr. Vartanian said one of the concerns they had was the prescriptiveness of the code and that perhaps it was too much so. He said there needs to be at least 20% residential and/or at least 20% non-residential, so there's quite a bit of flexibility. Philosophically, they were trying to get a community center that promotes a walkable community, sense of self, etc. He said the question of density is a valid one and the 18 may seem kind of intense and although they like the 18 and there are some benefits to higher density versus lower density, 14 or 16 would be acceptable. He said the good thing about the densities is that there the potential for different designs and affordability; use of transit; better support for the businesses inside; efficiencies and utilization of the infrastructure; and multi-family housing.

*Morris* asked Mr. Vartanian how the committee arrived to the recommendation of only 20% of any development type.



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*Vartanian* said in order to have a broad flexibility range they thought 20% ran the gamut of all the possibilities.

*Higbie* said the current code has 30% and he thought the idea behind the 20% was that there had been some concern that a lot of different mixed use developments you might not be able to support enough commercial development at 30% to make it viable. He thought it was more aimed at trying to reduce the amount of commercial. He said 50-50 implies that you would have half non-residential and half residential and there are many places in which that just wouldn't work.

*Morris* said if you try to visualize the 20% on a small parcel—5 acres or less—then 20% is probably appropriate. For a larger area, for example 30 acres, if you have 80% single-family at an R-18 density and 20% commercial, you may or may not be able to achieve the goals. She said she wondered if there had been consideration of adapting those ratios to the size of the parcel.

*Vartanian* said they were talking about areas that may or may not be mixed use zone in the future, because it's a 20-year plan at least. He said if they want the code to be able to accommodate a broad range of developments, they would need to rely on the relationships that the neighborhood associations are going to have, the intent of the code, and the marketability determination of whether an area would support 80% commercial—everything has to go together.

*Stuart* said it comes back to the question of how can they ensure that it fits with the surrounding zoning?

*Vartanian* said the intent would be that the planning process would generate some areas that zoned would be automatically compatible with what's next to them.

*Stuart* said in theory they have light industrial zoning. For example, say they create a mixed use zone buffer between the residential and the industrial and on the side that's industrial that's where you would put your uses that aren't residential, then blending it on the side that is residential.

*Vartanian* said he agreed and the nice thing about mixed use is that you can alter it to fit an area; however, if you say that you have to have the residential area around the outside and commercial aspects inside, then you've taken away that flexibility.

*Wayne Clemenson*, 19917 NE 68<sup>th</sup> Street, Vancouver, read a letter on behalf of Mike Worthy, Bank of Clark County, and Citizens Committee member. The letter expressed support for the recommended changes to the Mixed Use Ordinance.

*Ila Stanek*, 500 NW Wildwood Drive, Vancouver, stated that they visited a lot of mixed use sites and Fairview Village is one that blends very well. She said there needs to be

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flexibility. She said they feel the ordinance works and they have applied it to the half dozen sites currently zoned mixed use and it seemed to work well.

*Morris* said that Fairview Village is often cited as a model for good mixed use development and she asked if anyone knew what the total acreage of the development is or what the average residential density is across it.

*Boldt* said it is 95 acres and the density is 12.

[Public comment opened]

*Barbara Hayden-Colwell*, 317 NW 189<sup>th</sup> Street, Ridgefield, stated that a mixed use was ideal for her area.

*Dave Phillips*, Erickson & Hirokawa, 1111 Main Street, Suite 402, Vancouver, spoke on behalf of Greenway Terrace, a client who is asking for a rezone of parcel located near 117<sup>th</sup> Street and SR-503. Mr. Phillips said the concern he has is mainly with the 18 density units per acre requirement of the ordinance, which used to be 12. He said that for this particular site they have the ability to mix the uses along the southern and eastern portion, and it abuts an R-18 zone to the north, which gives them some flexibility there; however, if they are going to be compatible with the western portion of the site and have lower density attached or detached residential uses, they would be developing mid-20's and maybe 30 density units per acre in the center portion of the site. He further explained. He urged the board to adopt a lower density requirement in the ordinance.

*Boldt* said that if they have the lower density and a particular area warrants a higher density, he wondered if the market would encourage going to a higher density in some areas even though it's not in the code.

*Phillips* said they have to live with what the code says, but he thought the issue merited continued discussion.

*Stuart* asked if there was a way to put the desire for compatibility somewhere within the code and still provide the flexibility he would need to make it pencil out.

*Phillips* stated that, as an example, he's struggling with a client in the City of Vancouver, which is about 12 acres near the old Evergreen Airport and is triple-zoned. In that case, the City of Vancouver's code allows for vertical and site integration, but doesn't have a hard and fast minimum density; they're just looking at a way they can meet the surrounding setbacks. That's one way they could provide for some compatibility. He said he believed if the words in the code had a criteria, not just in the Purpose Statement, but in the Development Standards (new amended Section E, 42.30.0), to have some kind of credit against the open space requirement.

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*Morris* wanted to know what the minimum densities are in mixed use zones in all of their cities.

*Stuart* said Camas' is 10.

*Boldt* asked for a summary.

*Morris* asked that for the cities that have mixed use ordinances, they let them know if they have minimum densities and what their percentage ratios are, and whether they vary any of those according to the parcel size.

*Matt Lewis*, Pacific Lifestyle Homes, 11815 NE 99<sup>th</sup> Street, Suite 1200, Vancouver, thanked staff and the task force for all of their work and said that all in all it's a good product. He said it's exciting that Clark County is considering mixed use in a manner where they've zoned areas on the suburban fringe and the product took into account the suburban nature of the land. Lewis commented on the density portion and provided some overheads. He described a current project located in Gresham, Oregon. He said it hits 9 ½ net units per acre and the mixed use code as coming forward is 18. He further explained. He said that the 12 has been mischaracterized as the same old sprawling, low density, single-family development, but that's far from the case. He presented some overhead slides. He said 12 would get them an urban flavored density, a compact development, and achieve many of the codes the mixed use code attempts to do. There would still be the 20% commercial element and it would allow diversity of housing types, mixed income, and mixed lifestyle developments. Lewis also referenced Fairview Village, which has 12 dwelling units to the acre. He said he researched both Battle Ground's and Camas' code, Camas' being 8 dwelling units per net acre and Battle Ground's being 10. Overall, Lewis said he believed the ordinance was sturdy and allowed a fair amount of flexibility. As far as the compatibility, some jurisdictions say that lots that abut existing development have to be 75% of the underlying zone, so if abutting a 7,500 sq.-ft. lot zone you'd have to be 5,500 or 6,000. Something like that kind of requires a larger lot on the perimeter.

*Morris* said they do that in other parts of their code. She asked Mr. Lewis what the minimum lot size was on which a one-story house could be built. She noted that retirees in general don't care for stairs.

*Lewis* said a one-story could be built on a small lot, but it just becomes a square-footage question. You end up with something like an 800 sq.-ft. home on a small lot because you need to go up to get more square footage, which many people want. For a 5,000 sq. ft lot, you could get about a 2,000 sq.-ft. home.

*Morris* referenced an assisted living facility located at the intersection of Hazel Dell Avenue and 99<sup>th</sup> Street, which has several individual homes. She asked Mr. Higbie to find out how large the parcels were how many square feet the homes have.

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*Boldt* referenced the Planning Commission minutes in which they talk about parks being provided.

*Lewis* said there's an open space requirement of 15%, which he thought wasn't a bad thing. He thought it was important when doing a denser development to require some public open space. However, he felt that one inconsistency in the ordinance was for multi-family and commercial it was 5%, but single-family was 15% and was providing some private open space in the form of a small yard, yet had an increased dedication for public open space. He said he wasn't sure about that.

*Stuart* said that does seem counterintuitive.

*Lewis* referenced an overhead and said it would be at 37 acres and the park is 2.2 acres, so they would have to have a bigger park, but they also have private open space in the form of a clubhouse, which is not counted in that total.

*Stuart* referred to a letter from John Karpinski's office regarding the timing of when things occur. The question is – should you require the commercial or jobs element to be built concurrently or ahead of the residential? He asked *Lewis* if he had any thoughts on that.

*Lewis* said he wouldn't support a hard timing requirement in that if it's more of a residentially oriented site so the commercial element is probably going to be more retail, you're not going to solely support the retails with the rooftops in that development, but they're certainly going to help. He said he thought they just needed to have a policy of just sticking with the code and 20% means 20%.

*Boldt* asked what he would think of some kind of time period.

*Lewis* said they could look at a concurrency requirement, but would just need to be very thoughtful.

*Morris* asked that if she was the residential developer and someone else was going to do the commercial development, how would you realistically make it happen?

*Lewis* said a lot of times you have some cross-pollination within the uses, usually the residential gets the cash flow started, which allows the infrastructure development of everyone. He said that's a good question and there would be some complex financing arrangements in order to get it done.

*Don Robbins* stated that he has some commercial property on Highway 99, in the middle of the renovation area.

*Morris* wanted to know what the zoning is.

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*Robbins* said he was told by Elise Scolnick (Department of Community Development) that it was at one time, but then he found out that it was an overlay. He said its CL and MU zoning.

*Morris* said that's a great place for mixed use.

*Robbins* agreed. He said in the mixed use zoning, right now if residential isn't going to work at that particular area, he wondered if there was any way it could be phased in at a later time.

Unidentified speaker said yes.

*Benford* said that with some of the previous standards he talked about, the site would have to be designed to reserve the space on the site in order to be able to meet the requirements. He said the Master Planned Development would also have to be met, which has some of the phasing and allows some flexibility on timing.

*Robbins* asked about the height factor. Scolnick had told him 6 stories.

*Benford* said that's true.

*Morris* asked if he was on the east or west of Highway 99.

*Robbins* said he was on the east side.

*Benford* said the height is 72 feet, which is about 6 stories.

*Robbins* said he thought there should also be some flexibility as far as open space.

*Morris* wanted to know how many acres Mr. Robbins has.

*Robbins* said he has 4 acres on the north side and about 5 on the other; probably about 3 acres of usable on the south side.

*Morris* wanted to know if under this code each parcel would need to be developed separately. Could Mr. Robbins develop them as a single-unit mixed use?

*Higbie* said it allows for phasing so theoretically he could one side as phase I and the other as phase II.

*Boldt* asked if different owners could do the same.

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*Higbie* said yes, but they would have to agree to the same thing and would probably have to be co-owners because the development approvals go to the land. He said they don't normally see that and usually a developer will buy all of the properties involved.

[Public comment closed]

*Boldt* wanted to know how they came up with the 13-foot height requirement for a first story.

*Benford* responded that 13 feet is a highly desirable floor-to-ceiling height for commercial space and makes it adaptable to a great variety of commercial uses.

*Boldt* asked if that was common.

*Benford* said yes, and some communities even look at 15.

*Boldt* asked if the committee had gone through the specifics of the code, or was it mostly staff.

*Higbie* said they went through the major components.

*Boldt* said churches are a conditional use permit and asked if that was because they are conditional use permits throughout the rest of the code.

*Higbie* said yes and he didn't think there was much discussion on that at all.

*Boldt* asked about Resource Activity—Agriculture and Civil culture.

*Higbie* said those are simply permitted uses. He said Clark County has historically allowed agriculture activities anywhere and so it's reflected in the code.

*Lowry* added that the other reason it's there is to allow an interim use before it's developed so you can make use of it for passive kind of uses.

*Higbie* said that as far as a phasing development, all of the developments need to go through Master Planned Development in which there is a phasing requirement that if they wanted to phase, they would need to meet.

*Stuart* said that before they take final action he would like for them to look at the timing issue on the phasing.

*Higbie* said the timeline for approvals is 5 years.

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*Lowry* added that the section *Higbie* referenced is one that applies to all development approvals and it generally adopts a 5-year requirement that you finalize development within 5 years, but then provides that if you're phasing, so long as the first phase is within the 5 years and you get an additional 3 years for each phase, you then subsequently finalize. *Lowry* further explained.

*Boldt* wanted to know if uses that are permitted under this section would be permitted under the Master Planned Development. He referred to Onsite Hazardous Waste Treatment.

*Higbie* said there are some uses that are allowed in every zone and they have their own process. He believed Hazardous Waste Treatment has its own special process in the code.

*Boldt* then referred to Exhibit D, the timing, and asked if it would be possible to put that language somewhere so that a person could read one section of code and know that they don't have to go to another area of the code.

*Higbie* said that is possible, they could reference that.

*Morris* reiterated that she would like to have the comparative density and percentages from other cities' codes. Also, she said she was very interested in a development review staff response to how they might put planned unit development on the pieces of Mr. Robbins' property. She said the areas that still bother her are the minimum densities and in her mind minimum densities need to be tied to parcel size. *Morris* said she would also like the information on the independent houses on the assisted living facility.

*Stuart* said he would like more information on the issues of compatibility, density and information from other jurisdictions, and some ideas regarding the timing piece on phased developments.

*Boldt* said he was interested in the density issue and some specifics of local zoning maps in which there are multiple owners. For example, there's an owner off the main street who is in a mixed use area and wants to develop, but no one else does. How would that owner be affected?

There being no further comment, **MOVED** by *Stuart* to continue the hearing regarding the Mixed Use Ordinance to April 4, 2006, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor.

*Morris* pointed out that current state law does not allow development that historically has been known as suburban. It allows for urban and rural – that's all.

Commissioners *Boldt*, *Stuart*, and *Morris* voted aye. Motion carried. (See Tape 258)

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COMMISSIONER COMMUNICATIONS

There were no comments.

**2:00 P.M. PUBLIC BID OPENING**

Present at bid opening: Rebecca Tilton, Board of County Commissioners Office; and Mike Westerman and Beth Balogh, General Services-Purchasing Department


BID OPENING WI 15288

Held a public hearing for Bid Opening WI 15288 – Klineline Force Main, Segment C. Mike Westerman, General Services, opened and read bids and stated that it was the Purchasing Department's intention to award Bid WI 15288 on March 21, 2006 at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. (See Tape 258)

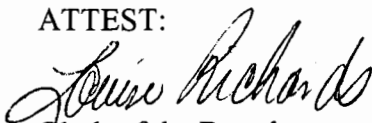
BOARD OF COUNTY COMMISSIONERS

  
Marc Boldt, Chair

Steve Stuart, Commissioner

  
Betty Sue Morris, Commissioner

ATTEST:

  
Clerk of the Board

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**BOARD OF COMMISSIONERS  
MINUTES ~ MARCH 21, 2006**

COMMISSIONERS PROCEEDINGS  
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CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stuart, Morris, and Boldt, Chair, present.

RETIREMENT PRESENTATION

Commissioner Morris recognized Barbara Kildun, Department of Public Works-Real Property Services, for her service to Clark County from March 17, 1986 to April 3, 2006. Morris presented a plaque to Barb and thanked her on behalf of the Board of County Commissioners.

Barb accepted the plaque and thanked everyone.

PROCLAMATION

Commissioner Boldt read a proclamation commending Legacy Health System for awarding a grant in the amount of \$155,000 to Children's Center as an outstanding example of corporate citizenship in our community's ongoing battle against methamphetamine.

Carrie Stanley, director of Community Relations and Programs, Legacy Health System, and Annette Cleveland, Community Relations Coordinator for Legacy-Salmon Creek Hospital, were present to accept the proclamation. Ms. Stanley made a brief statement and expressed their appreciation.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD 2431

Reconvened a public hearing for Bid Award 2431 – Pacific Community Park. Mike Westerman, General Services, stated that Clark County Purchasing and the Prosecuting Attorney completed the bid protest review as recommended on March 7, 2006; however, in light of recent budget information received from the Vancouver-Clark Parks and Recreation Department, for the entire program it does not appear that all costs related to the project were included in the original budget proposal. He said that rather than commit to this project what appears to be over budget, Purchasing and Public Works were recommending that award of Bid 2431 be delayed until March 28, 2006, at 10:00 a.m., in order to allow adequate review of the program budget.

There being no public comment, **MOVED** by Stuart to continue Bid Award 2341, Pacific Community Park, to March 28, 2006 at 10:00 a.m., in the Commissioners' Hearing Room, 6<sup>th</sup> Floor, Public Service Center. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 259)

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BID AWARD WO 26301

Reconvened a public hearing for Bid Award WO 26301 – Klineline Force Main Segment C. Mike Westerman, General Services, read a memo recommending that Bid WO 26301 be awarded to the lowest bidder.

*Stuart* pointed out that the cost of this would be covered by Clark Regional Wastewater District and the City of Battle Ground and asked why they weren't doing the bid process.

*Pete Capell*, Director, Department of Public Works, responded that the facilities were owned and operated by Clark County. He said they have two wholesale customers, Clark Regional Wastewater District and the City of Battle Ground, and through their agreements with them that's how the capital improvements are funded.

*Stuart* asked if there has ever been discussion about transferring that kind of inventory to the Wastewater District at some point.

*Capell* said they have had some ongoing discussions about the specific facilities at Salmon Creek and they've also been looking at possibly the district, but are also approaching a regional wastewater treatment entity.

There being no public comment, **MOVED** by *Stuart* to award Bid WO 26301 to Ostrander Rock & Construction Co., Inc., of Longview, Washington, in the total bid amount of \$8,008,988.77, including Washington State sales tax, and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Boldt, *Stuart*, and *Morris* voted aye. Motion carried. (See Tape 259)

BID AWARD 2434

Reconvened a public hearing for Bid Award 2434 – Annual Horticulture Supply Contract. Mike Westerman, General Services, read a memo recommending that Bid 2434 be awarded to the lowest bidder.

*Stuart* said this was a contract to provide both Clark County and the City of Vancouver with horticulture supplies. He asked if the bid amount covered both and, if so, how would they recoup their money from the City of Vancouver.

*Westerman* said yes and that the City of Vancouver places their order directly.

*Stuart* wanted to know what the county's share of the amount would be.

*Westerman* said it was a bit over half. He added that this was an annual contract to order supplies as needed, so they wouldn't necessarily order the entire amount.

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There being no public comment, **MOVED** by Stuart to award Bid 2434 to UAP Professional Products of Gresham, Oregon, in the total bid amount of \$161,058.83, and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 259)

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

*Stuart* referred to item 7 – approval to allocate an additional \$46,000 to the Indigent Defense Budget. He asked for further explanation.

*Bill Barron*, County Administrator, explained that they contract separately for indigent defense attorneys for District and Superior Court. He said this was specifically for District Court and that one local law firm has the contract to provide their indigent defense. Barron said the judges were concerned about the workload of the two lawyers of that firm and asked for the authority to hire one additional lawyer. He said the \$46,000 would be a contract addendum for the current contract and take them through the remainder of the year. It would then be brought before the board as part of the biennial budget process for '07-'08 for the entire amount of approximately \$65,000. If approved, this will be an ongoing expense.

*Stuart* stated that this was necessary, but always brings up the question of what is going on with the state as far as providing some support for indigent defense.

*Barron* said the state judiciary did a massive study two years ago. He said they have now embarked on a 5-7 year program in which each year they are progressively providing funds for local government to provide court services. He said that Clark County is currently 49 out of 50 in terms of state support of the judiciary and criminal justice in the state of Washington, and they're trying to change that. Barron further explained. Ultimately, he thought that at the end of the active program period, the state would make an evaluation to change the way we do indigent defense in the state of Washington and recommend a statewide system.

*Boldt* asked for further clarification regarding item 4 – grant agreement with the Washington State Department of Transportation for the Lewis and Clark Rail Line Improvement Project.

*Steve Schulte*, Department of Public Works, explained that the grant was for the current biennium so they had until July '07 to expend the dollars.

*Boldt* asked if this was approved in the previous legislative session.

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*Schulte* said he believed so.

*Boldt* asked if it would be spent soon.

*Schulte* said they were going to start immediately. He further explained. He said the county would be going out to bid the project.

*Boldt* said it didn't have anything to do with Columbia Basin.

*Schulte* said that was correct. He stated that at one time they had talked with Columbia Basin Railroad about being a partner in the agreement, but they elected not to. He that if Columbia Basin Railroad had a contractors license in the state of Washington, then conceivably they could bid on the project.

There being no public comment, **MOVED** by Stuart to approve items 1 through 15. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 259)

PUBLIC HEARING: SOLID WASTE MANAGEMENT

Held a public hearing to consider an ordinance amending Chapter 24.12 of the Clark County Code entitled, – "Solid Waste Management," establishing a solid waste management program in Clark County. Specifically, the proposed ordinance amends the permit appeals process to be consistent with the Washington Administrative Code.

*Quinn Posner*, Prosecuting Attorney's Office, presented a brief overview. He stated that the proposed ordinance would bring the Clark County Code into compliance with the Washington Administrative code and would simplify the appeals process, and bring them into alignment with the WACs.

*Boldt* said that in reading the new language, he had a problem with the timeline. As he understood it, the Health Department can approve it, but if they deny it, a written notice of appeal would have to go to the hearings examiner within 10 days.

*Posner* said the ordinance proposes 10 days. He didn't believe that was dictated by the WACs, but they determined that a 10-calendar day period would be typical for appealing a decision such as this.

*Boldt* asked if it could be appealed to the Board of Commissioners.

*Posner* said no. He further explained the appeals process.

*Boldt* referenced the last page, line 88, where it reads – "The appeal hearing before the Clark County Hearings Examiner shall occur within 30 calendar days following the notice, unless the matter is continued at the discretion of the Clark County Hearings Examiner for good cause." *Boldt* asked for further explanation.

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*Posner* said he believed that if a party appealing a previous decision could show just cause as to why they would need more time beyond the 30 days, the examiner could grant an extension of time.

*Morris* wanted to know if a hearings examiner, in an appeal, was a finder of fact or if he based his decision in the record.

*Posner* said the Washington Administrative Code doesn't require that a hearings examiner be present. He said they feel it's important to include a hearings examiner because they can make findings of fact and conclusions of law, and they believe that would be of assistance to the health officer.

*Morris* noted that hearings examiners are familiar with land use issues. She assumed that an appeal of a solid waste permit would be an environmental and technical issue because you could meet all of the land use criteria and under those be granted land use, but might not be able to get a permit from the Health Department. She wanted to know what was available to the hearings examiner to use in a decision.

*Gary Bickett*, Health Department, said that in the past the Health Department has used hearings examiners regarding compliance issues and for resolving complaints. He said land use issues would be established prior.

*Morris* said that in a SEPA issue the hearings examiner is final and not appealable to the Board of County Commissioners, with the exception of procedural issues. However, SEPA isn't the same thing as the health officer's determination about whether or not the management is correct.

*Barron* wanted to know what the hearings examiner's basis was for his finding—did he use the WAC, statutes?

*Bickett* said yes, as well as the information provided.

*Barron* asked if the hearings examiner was one of our land use hearings officers.

*Bickett* said it would be someone different whom they would hire.

*Boldt* asked if they would use state law.

*Bickett* said they would use state and county law.

*Morris* said it would be helpful if the role was further defined.

*Posner* said they could do that.

COMMISSIONERS PROCEEDINGS  
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CLARK COUNTY, WASHINGTON

*Morris* wanted to know to whom neighborhoods would appeal.

*Posner* stated that with an approval, RCW 70.95.185 states that the Department of Ecology is the only party that can appeal.

*Stuart* said he was concerned that it seemed a bit circular in how it's defined – Health Department makes the initial determination and then the hearings examiner hears it, and then the health officer then confirms or rejects the hearings examiner's decision.

*Posner* said the WACs dictate that the Health Department makes the initial decision on the permit and then the Health officer makes the decision on the appeal. He reiterated that the hearings examiner's role was to provide assistance to the health officer, who would be making the decision. He said the health officer isn't required by law to accept the findings and conclusions of the hearings examiner; however, when you look at the fact that a health officer doesn't really have any experience in matters such as this, they thought it would be a way to help the health officer in making that determination.

*Morris* said it reads – "...grant a hearing on such a denial or suspension between the Clark County Hearings Examiner and Health Officer." She asked if that occurred concurrently or sequentially.

*Posner* said the hearing would be held jointly before the hearings examiner and health officer.

*Morris* said that it seems mixed up and that they could use better articulation and clarity of what the process is.

*Posner* said they would do that.

There being no public comment, **MOVED** by *Stuart* to continue the hearing to consider an ordinance amending Chapter 24.12 of the Clark County Code, Solid Waste Management to March 28, 2006, at 10:00 a.m. in the Commissioners' Hearing Room, 6<sup>th</sup> Floor, Public Service Center. Commissioners *Boldt*, *Stuart*, and *Morris* voted aye. Motion carried. (See Tape 259)

COMMISSIONER COMMUNICATIONS

*Stuart* mentioned that Ed York had passed away. He said Ed was an advocate and defender of the Americans with Disabilities Act, and that he would be missed.

*Morris* wanted to point out that the county's web site now contained a link to a listing of local restaurants and people can check the status in terms of how well they're doing or if there are complaints.

COMMISSIONERS PROCEEDINGS  
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**2:00 P.M. PUBLIC BID OPENINGS**

Present at bid opening: Louise Richards, Board of County Commissioners Office; and Mike Westerman and Allyson Anderson, General Services-Purchasing Department

BID OPENING CRP 321222

Held a public hearing for Bid Opening CRP 321222 – Betts Bridge #26 Replacement (Salmon Creek Avenue). Mike Westerman, General Services, opened and read bids and stated that it was the Purchasing Department's intention to award Bid CRP 321222 on March 28, 2006 at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. (See Tape 260)

BID OPENING 2439


Held a public hearing for Bid Opening 2439 – Annual Syringe Exchange Program. Mike Westerman, General Services, stated that Clark County did not receive bids for 2439. (See Tape 260)

BOARD OF COUNTY COMMISSIONERS



Marc Boldt, Chair

Steve Stuart, Commissioner



Betty Sue Morris, Commissioner

ATTEST:



Clerk of the Board

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**BOARD OF COMMISSIONERS  
MINUTES ~ MARCH 28, 2006**

COMMISSIONERS PROCEEDINGS  
MARCH 28, 2006  
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stuart, Morris, and Boldt, Chair, present.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD CRP 321222

Reconvened a public hearing for Bid Award CRP 321222 – Betts Bridge 26 Replacement (Salmon Creek Avenue). Mike Westerman, General Services, stated that all responses to CRP 321222 were over the engineer's estimate established by Washington State Department of Transportation (WSDOT) and, therefore, Public Works was requesting that the bid award be continued until April 4, 2006, to allow sufficient time to review the proposals with WSDOT to determine if additional funding resources are available.

There being no public comment, **MOVED** by Stuart to continue award of Bid CRP 321222 to April 4, 2006 at 10:00 a.m., in the Commissioners' Hearing Room, Public Service Center, 6<sup>th</sup> Floor. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 260)

BID AWARD 2431

Reconvened a public hearing for Bid Award 2431 – Pacific Community Park. Mike Westerman, General Services, read a memo stating that five firms submitted bids in the amounts shown on the Tabulation of Bids and Bidders attachment. All bids, in combination with planning, design, and construction management costs, significantly exceeded the original budget for the project. Westerman stated that they believed it was in the County's best interest to re-evaluate the contract documents, adjust the work as necessary to reduce costs, and re-bid the project at a later date. Purchasing, Public Works, and Vancouver-Clark Parks and Recreation recommended that the Board reject all bids associated with the construction of Pacific Community Park, Project Number 033008.

*Boldt* asked Westerman what the original amount was.

*Westerman* said the original construction costs were \$4.3 million; however, when factoring in the planning, design, and project management costs, it was determined that the project was over budget. He said there were a lot of areas that could be reduced in the scope of work to significantly reduce the cost.

*Bill Barron*, County Administrator, added that he had met with the Director of Public Works and they had discussed this bid with the Board. He said they would be putting in a

COMMISSIONERS PROCEEDINGS  
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supplemental process for all of the parks projects that would put the design in a project management mode so they wouldn't face this type of situation again.

There being no public comment, **MOVED** by Stuart to reject all bids for Bid 2431, Pacific Community Park, and re-bid at a later date. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 260)

PUBLIC COMMENT

*Ron Lauser*, Wedgewood Homes, stated that he was in the process of doing a cluster short plat on Timmen Road, but was being required to improve site distance of 500 feet. Mr. Lauser said it's within county right-of-way and he has requested maintenance to take care of it, but has been told that because he has a plat in process it is his responsibility as the developer to do it. He wanted to know if he could pay the county to do it or have the authority to do it himself.

*Rich Carson*, Director, Department of Community Development, responded that he and Pete Capell (Director of Public Works) would take care of it.

CONSENT AGENDA

There being no public comment, **MOVED** by Stuart to approve items 1 through 12. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 260)

PUBLIC HEARING: SOLID WASTE MANAGEMENT

Held a public hearing to consider an ordinance amending Chapter 24.12 of the Clark County Code entitled, "Solid Waste Management," establishing a solid waste management program in Clark County. Specifically, the proposed ordinance amends the permit appeals process to be consistent with the Washington Administrative Code. Hearing continued from March 21, 2006.

*Quinn Posner*, Prosecuting Attorney's Office, recapped the board's previous hearing, during which concerns had been expressed about the role the hearings examiner would play and the board's wish to see language in the ordinance that would further clarify that role. Mr. Posner said they inserted language in subsection 3, page 4, line 79, which states that, "The Clark County Hearings Examiner shall submit proposed written findings of fact, conclusions of law and order to the Health Officer for advisory purposes." In addition, on page 5, line 86, a new subsection was inserted, which states, "The Clark County Hearings Examiner shall conduct the procedural aspects of the appeal hearing and provide assistance to the Health Officer in affirming, modifying, or overturning the order previously issued and that the Health Officer is not bound by any findings, conclusions, or other assistance provided by the Hearings Examiner." Posner said the hearings

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examiner would be conducting procedural aspects that the health officer would not be familiar with and could provide assistance where necessary.

*Morris* wanted to know why the hearings examiner would do findings of fact.

*Posner* said that was something the health officer could consider and that they believe any findings of fact could assist the health officer in considering those facts that are important to the appeal. He noted that the health officer isn't required to follow the hearings examiner's findings and could certainly make his own findings.

*Morris* asked if it would be de novo or on the record created by the health officer.

*Posner* said that in an appeals hearing he believed the health officer could consider the previous record entered. He said if you look earlier, the aggrieved party appealing the previous decision can note specific reasons why they feel the previous order is not correct and why the appeal should be granted. He said that would allow the appellant to interpret some things that may not have been considered in the past. *Posner* said the WAC doesn't speak to whether or not an appeal is de novo or purely based off a previous record and it appeared to him that it's essentially a combination of the two.

*Morris* said that from the board's experience there's a clear distinction between review of the process and review of the substantive issues, and the matters of facts and conclusions of law. On page 4, line 77, it says, "...following review of the evidence submitted," but she cannot tell if that's the evidence that has already been submitted to the health officer that has already been reviewed, or if it's indeed de novo evidence, which would be proposed at a formal hearing with testimony and submittals from staff and the opponent, which is what they usually get in a land use appeal. She said from the language it appeared the hearings examiner doesn't get very clear direction from the code and that his workmanship becomes advisory to the health officer. *Morris* stated that she was putting this within the framework of what they are accustomed to in land use appeals and she didn't know what the hearings examiner writes finding of fact on.

*Posner* said the WAC is not specific about whether or not the appeal is based purely off the record that has already been submitted, or if additional evidence could be admitted. He said if a solid waste applicant feels there is additional information that needs to be considered by the health officer, they could bring it to the hearing at that time.

*Boldt* suggested that if the WAC is silent on it, that they not be silent on it.

*Posner* asked if the board would like to continue the hearing in order to enter language regarding whether or not it is a de novo review or if it's based off the previous record.

*Morris* said that when it comes to land use decisions it's clear what the hearings examiner does, but this is a different kind of decision.

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*Boldt* said that when an appeal gets to the hearings examiner, the intent is to take away the politics and for the hearings examiner to base his decision on fact. Unless they give the hearings examiner clear direction, he'll wonder what evidence he should hear.

*Barron* said they would have Mr. Lowry and Mr. Posner clarify the difference between land use and solid waste hearings. He noted that solid waste hearings can be much like land use hearings, but are very detailed in terms of scientific evidence. *Barron* said the intent of having a hearings officer involved in the process is to help the health officer with some of the procedural aspects in terms of a large, full-blown hearing.

*Morris* wanted to know why they wouldn't just have legal council to assist the health officer.

*Posner* responded that it would depend on who council was, but that hearings examiners have experience in conducting the hearings and it seems that would be the best way to go in order to ensure a proper hearing is held.

*Stuart* said he liked the idea of having the hearings examiner to create the sideboards much like they do in land use appeals. He agreed with Commissioner *Morris* that this is different because the hearings examiner would just be doing advisory work for the health officer so it would be very important to be able to create sideboards for that work.

*Posner* clarified that the health officer would essentially be the second court, as the appellant court in that situation.

*Morris* said that as she reads it, the hearings officer is vested with the final decision-making authority. So if they clarify who makes the decision and figure out what the hearings examiner's role is relative to the one who makes the decision, she thought it would fall together easier.

*Stuart* reiterated that it's important to clarify the parameters of the record and ensure that everyone understands the process.

*Morris* referenced line 67, page 4, where it reads, "Whenever the Health Department denies a permit or suspends a permit for a solid waste handling facility, it shall upon request of the applicant or holder of the permit, grant a hearing on such denial or suspension before the Clark County Hearings Examiner and Health Officer." *Morris* said it isn't termed an "appeal" and she's used to language that says the "decision is appealable to."

*Posner* said they could address that as well.

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There being no public comment, **MOVED** by Stuart to continue the hearing to consider an ordinance amending Chapter 24.12 of the Clark County Code, Solid Waste Management, to April 11, 2006, at 10:00 a.m. in the Commissioners' Hearing Room, 6<sup>th</sup> Floor, Public Service Center. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 260)

COMMISSIONER COMMUNICATIONS

There were no comments.

*The Board of Commissioners adjourned and convened as the Board of Health*

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

*Boldt* wanted to know if there was a reason so many separate contracts came before them, for example the ones with dollar amounts such as \$2,500, \$5,000, \$2,300, etc.

*Bob Williamson*, Health Department, said they combine contracts when possible. For example, consent agenda items 4 and 5 are contracts with Community Services Northwest and the Health Department's intent was to consolidate those into one contract, but there had been an oversight. He said that in the future where they can combine such contracts, they will do so.

There being no public comment, **MOVED** by Stuart to approve items 1 through 11. Board members Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 260)

BOARD OF HEALTH COMMUNICATIONS

Stuart commented that he had attended the opening day for the Salmon Creek Little League, which was a wonderful event and well attended. He passed on thanks to Commissioners Boldt and Morris for providing funds in the supplemental budget for Parks and Recreation to look into helping out the little league and soccer club to find space.

*Adjourned*

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**2:00 P.M. PUBLIC BID OPENING**

Present at bid opening: Louise Richards, Board of County Commissioners Office; and Mike Westerman and Allyson Anderson, General Services-Purchasing Department

BID OPENING 2440

Held a public hearing for Bid Opening 2440 – Crack Sealing Machine. Mike Westerman, General Services, opened and read bids and stated that it was the Purchasing Department's intention to award Bid 2440 on April 4, 2006 at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. (See Tape 260)

BOARD OF COUNTY COMMISSIONERS

  
Marc Boldt, Chair

Steve Stuart, Commissioner

  
Betty Sue Morris, Commissioner

ATTEST:  
  
Clerk of the Board

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